



MEMO ENDORSED

MICHAEL A. CARDOZO
Corporation Counsel

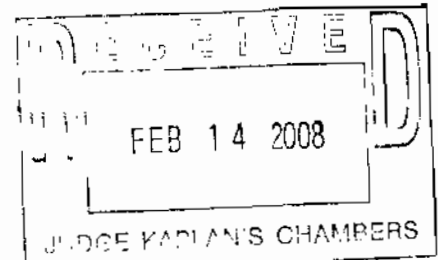
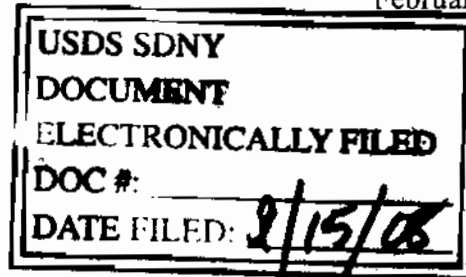
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February 13, 2008

BY Hand

Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007



Re: William Moses v. Warden Shaw, et al., 07 Civ. 5818 (LAK)
Andre Fuller v. Warden Shaw, et al., 07 Civ. 5817 (LAK)

Your Honor:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants Shaw and Squillante, in the Moses case.¹ Defendants respectfully request that their time to respond to the complaint in this action be extended sixty days from February 13, 2008, to April 14, 2008.² Plaintiff is incarcerated and proceeding *pro se*; therefore, this request is made directly to the Court.

¹ This case has been assigned to Assistant Corporation Counsel Benjamin Stockman, who is not yet admitted to this Court and is handling this matter under supervision. Mr. Stockman may be reached directly at (212) 788-1177. The companion to this case, Andre Fuller v. Warden Shaw, et al., 07 Civ. 5817 (LAK), has been assigned to Assistant Corporation Counsel Katherine Smith. Ms. Smith filed a request for an enlargement of time on behalf of defendant Shaw to respond to plaintiff Andre Fuller's complaint on February 6, 2008.

² There is no indication whether the other individually named defendant, Captain Simms, has been served with the summons and complaint. As of this date, no request for representation has been received with respect to this defendant, nor does the docket sheet reflect service on this individual. Without appearing on his behalf, it is respectfully requested that, once he is served, the same extension be granted to him to ensure that his defenses are not jeopardized while representation issues are being decided.

Times extended
ORDERED
to 3/13/08
LEWIS A. KAPLAN, JUDGE

In this case, plaintiff alleges that he was placed in a housing area for gang members without due process. Plaintiff further claims that, while he was in this housing unit, he was subjected to excessive force. Moreover, plaintiff makes several allegations regarding the conditions of his confinement.

There are several reasons for seeking an enlargement of time in this matter. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need time to investigate the allegations of the complaint. Plaintiff alleges that he was subjected to excessive force, placed in gang housing without due process, and was subjected to unconstitutional conditions of confinement. Accordingly, it is necessary for our office to acquire as much information and documentation as possible concerning this matter in order to properly assess the case and respond to the complaint. Currently, this office is in the process of forwarding to plaintiff a medical release, which is necessary for our office to obtain the medical records pertaining to plaintiff's alleged injuries and treatment, if any.

Further, assuming plaintiff timely serves Captain Simms, the extension should allow time for this office to determine, pursuant to Section 50-k of the New York General Municipal Law, and based on a review of the facts of the case, whether we may represent him. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

No previous request for an extension has been made in this action. Accordingly, we respectfully request that defendants Shaw and Squillante be granted an extension of time to respond to the complaint from February 13, 2008, to April 14, 2008.

I thank the Court for its time and consideration of this request.

Respectfully submitted,



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